

In re Patent Application of:
PEZESHKI ET AL
Serial No. 09/912,876
Filed: 07/25/2001

Remarks

Claims 1-35 are currently pending in this application. Claims 6,8-12, and 18-28 are withdrawn from further consideration pursuant to 37 CFR 1.142 (b).

Claims 1-5 and 13 have been rejected under 35 U.S.C. § 103 (a) as being unpatentable over Pianciola et al. (US 2003/0026301) in view of any one of Neuschafer et al. (US 6,078,705, col. 3 lines 8-15), Duveneck et al. (US 5,959,292, col 2 lines 40-62) or Cirelli et al. (US 5,005,916 col. 1 lines 13-22). Pianciola is said to disclose the claimed invention as follows (see Figs. 3-4):

Pianciola is said to disclose a tunable laser module comprising a laser operating at a first wavelength, and a wavelength locker coupled to said laser for tuning the first wavelength to a desired wavelength. The examiner states with reference to applicant's claim 1, that it would have been obvious to use a planar waveguide system as disclosed by Neuschafer or Duveneck or Cirelli in place of the fibers of Pianciola.

The limitations defined in claims 2, 3, 4-5 are said to also be disclosed by Pianciola; and claim 13 is said to be obvious to one skilled in the art.

The primary reference cited against claims 1,2,3,4-5 and 13 is US Patent Application 2003/0026301 to Pianciola.

The Pianciola application claims priority from EP 99125209.9 filed December 17, 1999 and from US provisional application 60/171,611 filed December 23, 1999.

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The applicant's invention was conceived prior to December 17, 1999 and was constructively reduced to practice as shown by accompanying exhibits A and B attached to an accompanying declaration under 37 CFR 1.131.

The invention as claimed has been fully disclosed in exhibit A which is dated October 1, 1999. The figures in exhibit A disclose the same subject matter as in the instant application. More particularly, Fig. 1 in the October 1999 disclosure is the same as Fig. 6 in the instant application, and Fig. 2 in the October 1999 disclosure is shown as Fig. 7 in the instant application.

It is therefore the applicant's view, that US Patent Application 2003/0026301 to Pianciola is not citable as a reference under 35 U.S.C. § 103 (a).

Claim 7 has been rejected under 35 U.S.C. § 103 (a) as being unpatentable over Pianciola in view of any of Neuschafer, Duveneck, or Cirelli as applied to the above claims and further in view of Weber (US 6,088,147).

Since Pianciola is not citable as a reference under 35 U.S.C. § 103 (a) the applicant believes that claim 7 is patentable and unobvious in view of Neuschafer, Duveneck, or Cirelli as applied to the above claims and further in view of Weber.

Claims 14-17 and 29-25 are rejected under U.S.C. § 103 (a) over Pianciola in view of Neuschafer, Duveneck, or Cirelli as applied to the above claims and further in view of Weber, and further in view of Harpin et al. (US 6,212,323). Although

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the above references teach waveguides absent the Pianciola reference, these references do not teach or suggest the claimed invention. Since Pianciola is not citable under 35 USC 103 in view of applicant's declaration, claims 14-17 and 29-35 are believed to be patentable.

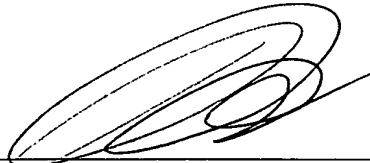
In view of this, it is respectfully submitted that all of the claims remaining in the application are in condition for allowance.

Early and favorable consideration would be appreciated.

Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 50-1465 and please credit any excess fees to such deposit account.

Respectfully submitted,



Mr. Charles Wands
Reg. No. 25,649

December 10, 2003
Date:



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